

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MICHAEL POLLOCK #121489,

Petitioner

:

v.

:

CIVIL ACTION NO. WDQ-04-2139

JON P. GALLEY, WARDEN, *et al.*,

Respondents

:

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MEMORANDUM

Michael Pollock, a state prisoner, filed a now-counseled petition for federal habeas corpus relief pursuant to 28 U.S.C. § 2254 challenging his year 1972 conviction in what is now the Circuit Court for Baltimore City for first degree murder.¹ For the reasons that follow, the motion will be dismissed without prejudice.

The undersigned required the parties to brief the issues of timeliness and equitable tolling. It is now apparent, however, that the instant petition represents Pollock's second or successive §2254 challenge to his 1972 conviction. The Honorable Shirley B. Jones denied the first habeas petition attacking this conviction by order dated February 24, 1981. *See Pollock v. Director, Patuxent, et al.*, J-80-229 (D. Md. 1981).

A prisoner may file a second or successive habeas corpus petition only if he has moved the appropriate circuit court for an order authorizing the district court to consider his application. *See* 28 U.S.C. §2244(b)(3)(A). Petitioner has failed to comply with the procedural requirements for a second

¹ Petitioner is serving a life sentence for this crime, which involved the 1971 shooting death of Joseph Edward Coates, a Baltimore taxi driver.

or successive petition, and this motion must be dismissed for lack of jurisdiction. *See Evans v. Smith*, 220 F.3d 306, 325 (4th Cir. 2000). Petitioner's counsel will be provided information concerning the proper filing procedures for an authorization from the United States Court of Appeals for the Fourth Circuit. An Order consistent with this Memorandum follows.

July 26, 2005

Date

/s/

William D. Quarles, Jr.

United States District Judge

